

1 BILL NO. S-86-10-51

2 SPECIAL ORDINANCE NO. S-192-86

3 AN ORDINANCE approving Contract
4 for Improvement Res. #6056-86,
5 Delaware and Tecumseh Sidewalks -
6 1986 Bond Issue, between the City
7 of Fort Wayne, Indiana and M. A.
8 Gaines Construction Co., Inc.,
9 in connection with the Board of
10 Public Works and Safety.

11 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL
12 OF THE CITY OF FORT WAYNE, INDIANA:

13 SECTION 1. That the annexed Contract for Improvement
14 Res. #6056-86, Delaware and Tecumseh Sidewalks - 1986 Bond Issue,
15 between the City of Fort Wayne, by and through its Board of Public
16 Works and Safety, and M. S. Gaines Construction Co., Inc., is
17 hereby ratified, and affirmed and approved in all respects.

18 The work under said Contract requires:

19 improvement of the following:
20 DELAWARE AVENUE (Both Sides) from
21 St. Joseph Blvd. east to Kentucky
22 Avenue and TECUMSEH AVENUE from
23 Tennessee Avenue north to Delaware
24 Avenue by replacing sidewalks and
25 addition of yardwalks and Paraplegic
26 ramps;

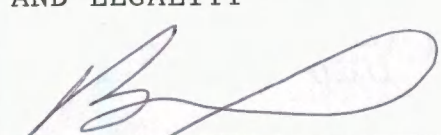
27 the Contract price is Sixty-One Thousand Six Hundred Eighty-Two
28 and 50/100 Dollars (\$61,682.50).

29 SECTION 2. Prior Approval was received from Common
30 Council with respect to this Contract, on October 7, 1986. Two
31 (2) copies of the Contract, attached hereto, are on file with
32 the City Clerk, and are made available for public inspection,
according to law.

SECTION 3. That this Ordinance shall be in full force
and effect from and after its passage and any and all necessary
approval by the Mayor.


Councilmember

APPROVED AS TO FORM
AND LEGALITY


Bruce O. Boxberger, City Attorney

Read the first time in full and on motion by Henry, seconded by C. Stier, and duly adopted, read the second time by title and referred to the Committee Public Works (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock _____ M., E.

DATE: 10-28-86

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Henry, seconded by Stier, and duly adopted, placed on its passage. PASSED (~~LOST~~) by the following vote:

| | <u>AYES</u> | <u>NAYS</u> | <u>ABSTAINED</u> | <u>ABSENT</u> | <u>TO-WIT:</u> |
|--------------------|-------------|-------------|------------------|---------------|----------------|
| <u>TOTAL VOTES</u> | <u>9</u> | _____ | _____ | _____ | _____ |
| <u>BRADBURY</u> | <u>✓</u> | _____ | _____ | _____ | _____ |
| <u>BURNS</u> | <u>✓</u> | _____ | _____ | _____ | _____ |
| <u>EISBART</u> | <u>✓</u> | _____ | _____ | _____ | _____ |
| <u>GIAQUINTA</u> | <u>✓</u> | _____ | _____ | _____ | _____ |
| <u>HENRY</u> | <u>✓</u> | _____ | _____ | _____ | _____ |
| <u>REDD</u> | <u>✓</u> | _____ | _____ | _____ | _____ |
| <u>SCHMIDT</u> | <u>✓</u> | _____ | _____ | _____ | _____ |
| <u>STIER</u> | <u>✓</u> | _____ | _____ | _____ | _____ |
| <u>TALARICO</u> | <u>✓</u> | _____ | _____ | _____ | _____ |

DATE: 11-10-86

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING MAP) ORDINANCE (RESOLUTION) NO. S-192-86 on the 10th day of November, 1986.

ATTEST:

(SEAL)

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Samuel J. Talarico
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 12th day of November, 1986, at the hour of 9:00 o'clock PM M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 12th day of November, 1986, at the hour of 9:30 o'clock A M., E.S.T.

Win Moses, Jr.
WIN MOSES, JR., MAYOR

BOARD OF PUBLIC WORKS AND SAFETY
INVITATION FOR BIDS/AWARD OF CONTRACT*

Page 1 of _____

(Non-Federally Assisted Construction)

PROJECT: DELAWARE & TECUMSEH SIDEWALKS

RESOLUTION # _____

6056-86

1986 BOND ISSUE

CONTENTS

| Check if contained | Pages | |
|--------------------|-----------|---------------------------------------|
| X | I | Cover Sheet |
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| X | SI | Schedule |
| X | | Schedule of Items (Itemized Proposal) |
| X | GP1 - GP7 | General Provisions |
| X | | Special Conditions |
| X | | Plans and Specifications |
| X | | Drawings |
| X | | Improvement Resolution |
| X | | Notice to Bidders |
| | | |

ATTACHMENTS

| | | | | |
|--|------------------|--|------------------|-------|
| X | | Non-Collusion Affidavit | | |
| X | | Bidder's Bond | | |
| X | | Performance Bond | | |
| X | | Sworn Experience Questionnaire | | |
| X | | Plan and Equipment Questionnaire | | |
| X | | Contractor Financial Statement 96-A | | |
| X | | Certificate in Lieu of Financial Statement | | |
| X | | Prevailing Wage Scale - State of Indiana | | |
| X | | Payment Bond | | |
| X | | Warranty Bond | | |
| X | | Barricade Information | | |
| X | | Certification of Bidder/Vendor on Anti-Apartheid | | |
| Discount for prompt payment | 10 Calendar Days | 20 Calendar Days | 30 Calendar Days | Other |
| | _____ | _____ | _____ | _____ |
| Acknowledgement of Amendments (See General Provisions Clause) | Amendment No. | Date | Amendment No. | Date |
| | | | | |
| | | | | |

BID SUBMITTED

Contractor M.A. Gaines Constr. Co. Inc.

By Michael A. Gaines

Its President

Offer Date September 16, 1986

Bidder agrees to keep bid open for acceptance for 90 (90 days unless otherwise specified)

Compliance: J. Adams

O.C. 12/84

B.O.W. Non-Fed. *Note: Award will be made on this form

ACCEPTANCE OF BID/AWARD OF CONTRACT

City of Fort Wayne
Board of Public Works and Safety

[Signature]

[Signature]

City of Fort Wayne
Mayor

[Signature]

Award Date

9-24-86

INSTRUCTIONS TO BIDDERS
Board of Public Works and Safety
City of Fort Wayne, Indiana

August 29, 19⁸⁶

Non-Federally Funded Construction

1. Submission of Bids. Sealed bids will be received by the Board of Public Works and Safety of the City of Fort Wayne, in the State of Indiana, hereinafter "The Board" until 9:00 o'clock AM on the 17th day of September, 19⁸⁶, at the Office of The Board in the City-County Building, at which time the bids will be publicly opened and read, for the following described work, as more fully set forth in the specifications:
DELAWARE & TECUMSEH SIDEWALKS - RESOLUTION NO. 6056-86
To improve: Delaware Ave. (both sides) from St. Joeseeph Blvd. east to Kentucky Ave. and
Tecumseh Ave. from Tennessee Ave. north to Delaware Ave.
by replacing Sidewalks and addition of Yardwalks and Paraplegic Ramps.

2. Inclusion of Clauses - If a clause in the Invitation for Bids (IFB) has a box ☐ beside it, the clause applies to the IFB only if it contains a check mark (✓) or an "X". Any questions as to whether a clause is included or not should be referred to The Board.

3. Questions as to Bid Document. If a bidder finds discrepancies in, or omissions from, the bid document or has questions about the project, he should at once contact the City Engineers. If the information requested or change made is substantive, The Board will issue an amendment to the solicitation and will send such amendment to all potential bidders who have procured an Invitation for Bid (IFB). The Board and the City will not be responsible for any oral instructions.

4. Award of Contract (Timeliness, Responsiveness, Responsibility). A contract resulting from the Invitation for Bids will be awarded to the lowest and best timely bidder who is also responsive and responsible. If bids are otherwise equal, award will be made to that bidder granting the largest prompt payment discount.

5. Bid Requirements. All bids shall be endorsed with the title of the work, the name of the bidder, and the date of mailing or presentation. All bids shall be filed in the office of The Board on or before the day and hour set forth above and stated in the advertisement, and no bid received after that time will be accepted. The Board will not accept any late filing regardless of reason, including delays in the mail.

Minority Business Enterprise (MBE) is a business of which at least 51% is owned and controlled by minority group members. ("Minority" means Black, Hispanic, American Indian, Asian, Pacific Islander, and Alaskan Native). The minority owners must exercise actual day-to-day management, as well as actively participate in management and policy decisions affecting the business. The contribution of capital, equipment or expertise made by the minority owners must be real, substantiated and documented.

Women Business Enterprise (WBE) is a business of which at least 51% is owned and controlled by women. The women owners must exercise actual day-to-day management, as well as actively participate in management and policy decisions affecting the business. The contribution of capital, equipment or expertise made by the women owners must be real, substantiated and documented.

The contract for which this proposal/bid is prepared is governed by the MBE/WBE Ordinance. This form must be completed in order to be responsive to this IFB/RFP. If the participation goal of 7% for MBE and 2% for WBE are not met or exceeded in your bid or proposal, the reasons for this failure and reasonableness and good faith of efforts to meet this goal shall be evaluated in determining whether the bidder/offeror is responsible.

A list of possible MBE/WBE contractors/suppliers are on file in the Compliance Office, Room 800, City-County Building, for Contractor review.

THE FOLLOWING IS THE UNDERSIGNED'S COMMITMENT TO THE MBE/WBE GOALS OF THE CITY FOR WORK DONE PURSUANT TO THIS CONTRACT:

- A. ☒ The undersigned firm certifies that it is an MBE/WBE Contractor (cross out inapplicable provision).

For MBE specify percentage of minority ownership
100 %.

For WBE specify percentage of women ownership
____ %.

- B. _____ The undersigned certifies that they are a joint venture in which the following (MBE/WBE) firm _____ (cross out inapplicable provision) is a joint venture partner.

The MBE/WBE firm (cross out inapplicable provision) shall have _____% participation (employees) _____% participation (costs) in this project.

Specify the percentage of minority/women ownership in the MBE/WBE firm _____. (cross out inapplicable provision)

- C. The undersigned commits 2 % of the total bid price as a subcontract to minority business enterprise participation. The MBE firms which are proposed as subcontractors are the following:

| <u>Name of Firm</u> | <u>Address</u> | <u>Type of Work</u> |
|---------------------|----------------|---------------------|
| 1. Becktun Hauling | | Trucking - |
| 2. | | |
| 3. | | |

- D. The undersigned commits _____% of the total bid price as a subcontract to women business enterprise participation. The WBE firms which are proposed as subcontractors are the following:

| <u>Name of Firm</u> | <u>Address</u> | <u>Type of Work</u> |
|---------------------|----------------|---------------------|
| 1. | | |
| 2. | | |
| 3. | | |

- E. Complete (1) and (2) below if participation goals of 7% MBE and 2% WBE have not been met.

1. My Company cannot meet the participation goals for the following reasons: _____

2. We have taken the following steps in an attempt to comply with these participation goals: _____

(attach additional sheets as necessary)

Contractor M. A. Gains Const. Co. Inc. Contractor _____

By Michael A. Gains By _____

Its President Its _____

14. Minority/Female Hourly Employment Requirements.

The City's policy is to encourage a greater utilization of minority and/or female employees in City construction projects. The Board has, therefore, adopted a minimum goal of 17% of the total work hours on each project to be expended by minority and/or female employees. ("Minority" shall include: Blacks, Hispanic, Asian, Pacific Islander, American Indian or Alaskan Native.)

The bidder shall state in "A" below the percentage of total work hours which the bidder and his subcontractors will employ and utilize women and minority employees on this project. If a contract is awarded as a result of this bid, the percentage figure set forth in "A" shall become contractually binding on the bidder. The successful bidder will also be required to prepare reports for the City demonstrating compliance with this percentage and will allow city officials access to his records, facilities and work site and to those of his subcontractors to determine compliance.

The bidder must fill in the required blanks in this clause in order to be responsive to this IFB. If the bidder does not meet or exceed the hourly utilization goal of 17% minority/female participation, the reasons for this failure and reasonableness and good faith of efforts to meet this goal shall be evaluated to determine whether the bidder is responsible.

THE FOLLOWING IS THE UNDERSIGNED'S COMMITMENT TO MINORITY/FEMALE HOURLY UTILIZATION.

A. The undersigned firm certifies that it will employ and utilize minorities and females and/or will ensure that its subcontractors employ and utilize minorities and females so that minorities and females will work at least 17% of the total hours worked on this project.

B. Complete (1) and (2) below if the hourly utilization figure set forth in "A" is less than 17%.

1. My Company and its subcontractors cannot meet the 17% minimum hourly utilization figure for the following reasons: _____

_____.

2. My Company has taken the following steps in an attempt to comply with the 17½ hourly utilization figure:

(attach additional sheets if necessary)

Contractor M.A. Gains Construction
By Thomas H. Gains
Its (Signature)

15. Required Prevailing Wage Schedule Payments - Pursuant to Indiana Code 5-16-7-1. All contractors and subcontractors working on the project awarded pursuant to this contract shall pay the prevailing wage rates for skilled, semi-skilled and unskilled laborers, workmen and mechanics. This wage determination has been made in accordance with the procedures set forth in Indiana Code 5-16-7-1. This determination and the required wage rates are available for examination by any prospective bidder at The Board of Public Works and Safety, 9th Floor, City-County Building, Fort Wayne, Indiana.

If a bidder is awarded a contract as a result of this Invitation for Bids, he/she/it shall file a schedule of wages, on forms provided by the City of Fort Wayne, demonstrating compliance with the wage rate determination. The successful prime contractor shall be responsible for obtaining schedules from all subcontractors. All schedules shall be filed before the contractor commences any work on the project.

Penalties for failure to pay the prevailing wage rate are set forth in Indiana Code 5-16-7-3.

16. Site Orientation. A site orientation (~~will~~/will not) be conducted by the City Engineers. If such an orientation is conducted, it will be held on the ____ day of _____, 19____, commencing at ____ o'clock ____ M. at the site of the project.

Regardless of whether a site orientation is conducted or not, bidders are required to visit the site of the work, and inform themselves fully of the conditions, under which the work will be performed. The bidders shall be responsible for all conditions that affect the work, including, but not limited to all sub-surface conditions.

BOND NO. MI 0008785

BID OR PROPOSAL BOND

KNOW ALL MEN BY THESE PRESENTS, that we M.A. Gaines Construction Co., Inc.

as PRINCIPAL, (hereinafter called the Principal), and Credit General Insurance Company
, a corporation duly organized under the State of Ohio and authorized to transact
a general surety business in the State of Ind. as SURETY, (hereinafter called the Surety), are held firmly bound unto:
City of Fort Wayne, Indiana

as OBLIGEE, (hereinafter called the Obligee), in the sum equal to 10 % of the accompanying bid of the Principal, not,
however, in excess of Six Thousand Five Hundred & no/100***** dollars,
(\$ 6,500.00*****), for the payment of which sum well and truly to be made, the said Principal and the said Surety,
bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITIONS OF THIS OBLIGATION IS SUCH, That, whereas the Principal has submitted or is about to submit to the
Obligee a proposal or bid, dated on or about the date mentioned below, for: (1) the performance of the designated work, or
(2) the furnishing of the specified goods, supplies or products, to-wit:

Delaware & Tecumseh Avenue Sidewalk Improvements 6056-86

NOW, THEREFORE, if the Principal shall not legally withdraw said bid within or at the times permitted therefor, but shall
duly make and enter into a written contract with the Obligee, in accordance with the terms of said proposal or bid, or any
amendment thereof acceptable to the Principal, within the time permitted therefor after such contract forms are presented to
the Principal for execution, should the Obligee award the Principal the said work or contract, or any part thereof; and if the
Principal shall give bond or bonds for the faithful performance thereof, and/or for payment for labor and materials going
thereinto, as in the specifications or contracts provided; or if the Principal shall, in case of failure so to do, pay to the Obligee
the damages which the Obligee shall have actually suffered by reason of such failure, not exceeding the penal sum of this
bond, then this obligation shall be null and void, otherwise to be and remain in full force and virtue.

PROVIDED, HOWEVER, that no action shall lie, or claim be enforced hereunder, unless the award on the basis of said bid
shall have been made within thirty (30) days after the formal opening of said bid, or within the time specified within the bid
provisions, whichever time shall be greater, and unless the Obligee hereunder shall give notice to Surety of said award at the
time of notification to the Principal; and unless legal action to enforce any claim hereunder shall have been commenced
within six (6) months from the date of the formal opening of said bid.

PROVIDED, always, that this Bond shall not be valid and binding upon the Surety unless accompanied by a Certified Copy
of a Power of Attorney authorizing the undersigned Attorney-in-Fact to execute such a bond, the Serial Number upon which
Copy of Power of Attorney shall correspond with the Bond Number set out above.

Signed, sealed, and dated this 17th day of September 19 86

M.A. Gaines Construction Co., Inc.

BY _____ Principal
Credit General Insurance Company

BY Jerry Bey Attorney-in-Fact

CREDIT GENERAL INSURANCE COMPANY
SPRINGFIELD, OHIO

POWER OF ATTORNEY — FOR BID BONDS ONLY

PRINCIPAL M.A. Gaines Construction Co., Inc. EFFECTIVE DATE September 17, 1986

CONTRACT AMOUNT _____ AMOUNT OF BOND \$ 6,500.00

POWER NO. MI 0008785

KNOW ALL MEN BY THESE PRESENTS: That the Credit General Insurance Company, a Corporation in the State of Ohio, having its home office at One South Limestone Street, Springfield, Ohio 45501, pursuant to the following resolution, adopted by the Board of Directors of the said Company on the 16th day of May, 1984, to wit:

"Resolved, that any two officers of the Company shall have authority to make, execute and deliver a Power of Attorney constituting as Attorney-in-Fact, such persons, firms, or corporations as may be selected from time to time.

Be It Further Resolved, that the signatures of such officers and the Seal of the Company may be affixed to any such Power of Attorney or any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company and any such powers so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached."

does hereby make, constitute and appoint Jerry Bey

its true and lawful

attorney(s)-in-fact, with full power and authority hereby conferred in its name, place and stead, to sign, execute, acknowledge and deliver in its behalf, and its act and deed, as follows:

The obligation of the Company shall not exceed two hundred thousand (\$200,000.00) dollars.

And to bind Credit General Insurance Company thereby as fully and to the same extent as if such bond or undertaking was signed by the duly authorized officers of the Credit General Insurance Company, and all the acts of said Attorney(s) pursuant to the authority herein given, are hereby ratified and confirmed.

IN WITNESS WHEREOF, the Credit General Insurance Company has caused these presents to be signed by two officers of the Company and its Corporate Seal to be hereto affixed.

CREDIT GENERAL INSURANCE COMPANY



Notary Public)
State of Ohio) SS:

On this 16th day of May, 1984, before the subscriber, a Notary Public of the State of Ohio duly commissioned and qualified, came Forrest J. Curtin and David F. Hutchinson of the Credit General Insurance Company, to me personally known to be the individuals and officers described herein, and who executed the preceding instrument and acknowledged the execution of the same, and being by me duly sworn, deposed and said, that they are the officers of said Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and the said Corporate Seal and signatures as officers were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporation, and that the resolution of said Company, referred to in the preceding instrument, is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed my official seal at Springfield, Ohio, the day and year above written.



State of Ohio) SS:

I, the undersigned, Secretary of CREDIT GENERAL INSURANCE COMPANY, a stock corporation of the State of Ohio, DO HEREBY CERTIFY that the foregoing and attached Power of Attorney and Certificate of Authority remains in full force and has not been revoked; and furthermore, that the Resolution of the Board of Directors, as set forth in the Certificate of Authority, is now in force.

Signed and Sealed at the Home Office of the Company, in Ohio. Dated this 17th day of September A.D., 19 86



Forrest J. Curtin, President

Senior Vice President

Notary Public

SHARON L. GULVAS
NOTARY PUBLIC, State of Ohio
My Commission Expires January 16, 1987

L.K. Hill, Secretary

NON-COLLUSION AFFIDAVIT

The Bidder, by its officers and M.A. Gaines Constr. Co., Inc.

agents or representatives present at the time of filing this bid, being duly sworn on their oaths, say that neither they nor any of them have in any way, directly or indirectly, entered into any arrangement or agreement with any other bidder, or with any public officer of such City of Fort Wayne, Indiana, whereby such affiant or affiants or either of them, has paid or is to pay to such other bidder or public officer any sum of money, or has given or is to give such bidder or public officer anything of value whatever, or such affiant or affiants or either of them has not directly or indirectly, entered into any arrangement or agreement with any other bidder or bidders, which tends to or does lessen or destroy free competition in the letting of the contract sought for by the attached bids, that no inducement of any form or character other than that which appears upon the face of the bid will be suggested, offered, paid or delivered to any person whomsoever to influence the acceptance of the said bid or awarding of the contract, nor has this bidder any agreement or understanding of any kind whatsoever, with any person whomsoever to pay, deliver to, or share with any other person in any way or manner, any of the proceeds of the contract sought by this bid.

M.A. Gaines Constr. Co., Inc.
Michael A. Gaines, Pres.

Subscribed and sworn to before me by M.A. Gaines Construction Co. Inc.
this 17th day of September, 1986.

My Commission Expires:

August 14, 1990

Carol J. Beutler
Notary Public
Resident of Allen County, IN

Subscribed and sworn to before me by _____
this _____ day of _____, 19____.

My Commission Expires:

Notary Public
Resident of _____ County, IN

Subscribed and sworn to before me by _____
this _____ day of _____, 19____.

My Commission Expires:

Notary Public
Resident of _____ County, IN

Contract No.

CERTIFICATE IN LIEU OF FINANCIAL STATEMENT

I, Michael A. Gains, the President
(name)

(position) of M.A. Gains CONSTR. Co., Inc.
(company)

hereby certify:

(1) That the Financial Statement of said company, dated the 1
day of April, 1986, now on file in the office of the Board of
Public Works of the City of Fort Wayne, Indiana, which Financial Statement is by
reference incorporated herein and made a part hereof, is a true and correct
statement and accurately reflects the financial condition of said company as of
the date hereof;

(2) That I am familiar with the books of said company showing its financial
condition and am authorized to make this certificate on its behalf.

Dated: September 16, 1986 Michael A. Gains
(signature)

SUBSCRIBED AND SWORN TO before me, a Notary Public, in and for said
County and State, this 17th day of September, 1986.

Carol I. Beutler
CAROL I. BEUTLER

My commission expires:

August 14, 1990

CERTIFICATION OF BIDDER/VENDOR

The undersigned, on behalf of M. A. Gains CONSTR. Co., Inc.
_____, does hereby make the following representations
to the City of Fort Wayne, Indiana.

WHEREAS, it is acknowledged that the Common Council
of the City of Fort Wayne, Indiana, has passed an ordinance con-
demning the apartheid policies of the country of South Africa;

WHEREAS, Council's ordinance requires that all persons,
firms or corporations submitting bids to the City, for goods and
services, certify, as part of the bid, that such entity does not
support the policies of apartheid in South Africa.

The undersigned states, on behalf of M. A. Gains
CONSTR. Co., Inc., that M. A. Gains CONSTR. Co., Inc.
does not support or endorse the policy of apartheid in South Africa.

IN WITNESS WHEREOF, this Certification has been signed
this 16 day of September, 1986.

M. A. Gains CONSTR. Co., Inc.
(Name of Bidder/Vendor)

Michael A. Gains, President
(Name and Title of Person Signing)

Performance and Payment Bond

KNOW ALL MEN BY THESE PRESENTS: that

M.A. Gaines Construction Company, Inc.
1014 Webster Street

(Here insert full name and address or legal title of Contractor)

Fort Wayne, Indiana 46802
as Principal, hereinafter called Contractor and,
Indiana Lumbermens Mutual Insurance Co.
7366 N. Lincoln Avenue, Suite 300

(Here insert full name and address or legal title of Surety)

Lincolnwood, Illinois 60646
as Surety, hereinafter called Surety, are held and firmly bound unto
Fort Wayne Public Works & Safety
1 Main Street

(Here insert full name and address or legal title of Owner)

Fort Wayne, Indiana 46802

as Oblige, hereinafter called Owner, in the amount of Sixty one thousand six hundred
eighty two and 50/100 ----- Dollars (\$ 61,682.50),

for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS,

Contractor has by written agreement dated 19 , entered into a contract with Owner for
Improvement Resolution 6056-86-Delaware & Tecumseh sidewalks

in accordance with Drawings and Specifications prepared by

(Here insert full name and address or legal title of Architect)

which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITIONS OF THIS OBLIGATION are such that, if the Principal shall promptly and faithfully perform said Contract and make payment to all claimants, as hereinafter defined, for all labor and material used in the performance of the Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

- A) Whenever Contractor shall be, and declared by owner to be in default under the Contract, the Owner having performed Owner's obligations thereunder, the Surety may promptly remedy the default, or shall either
 - 1) Complete the Contract in accordance with its terms and conditions; or
 - 2) Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or, if the Owner elects, upon determination by the Owner and the Surety jointly of the lowest responsible bidder, arrange for a contract between such bidder and Owner, and make available as Work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the
- contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof, subject to the limitations in Paragraph D.
- 3) The term "balance of the contract price," as used in this paragraph, shall mean the total amount payable by Owner to Contractor under the Contract and any amendments thereto, less the amount properly paid by Owner to Contractor.
- B) 1) A claimant is defined as one having a direct contract with the Principal or with a Subcontractor of the Principal for labor, material, or both, used or reasonably required for use in the performance of the Contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.

- 2) The above named Principal and Surety hereby jointly and severally agree with the Owner that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The Owner shall not be liable for the payment of any costs or expenses of any such suit.
- C) No suit or action shall be commenced hereunder by any claimant,
- 1) Unless claimant, other than one having a direct contract with the Principal, shall have given written notice to the following: the Principal, the Owner, and the Surety above named, within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Principal, Owner or Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer.
- 2) After the expiration of one (1) year following the date on which the Principal ceased Work on said Contract, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.
- 3) Other than in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the Project, or any part thereof, is situated, or in the United States District Court for the district in which the Project, or any part thereof, is situated, and not elsewhere.
- D) The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics' liens which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against this bond.

Signed and sealed this

15th

day of

October

19 86

M.A. Gaines Construction Company, Inc.

(Principal)

(Seal)

(Witness)

(Title)

Indiana Lumbermens Mutual Insurance Co.

(Surety)

(Seal)

(Witness)

Ila Delman

(Title)

Ila Delman

Attorney-in-Fact

STATE OF ILLINOIS)
COUNTY OF COOK)

I, Francine Savitt, a Notary Public of Cook County,
State of Illinois, do hereby certify that Ila Delman
Attorney-in-Fact of Indiana Lumbermens Mutual Insurance Company, who is
personally known to me to be the same person whose name is subscribed to
the foregoing instrument, appeared before me this day in person and acknow-
ledged that he/she signed, sealed and delivered said instrument for and on
behalf of Indiana Lumbermens Mutual Insurance Company for the uses and
purposes therein set forth.

Given under my hand and notarial seal at my office at Lincolnwood, Illinois
in said county, this 15th day of October, 1986, A.D.

My commission expires 4-20-88

Francine Savitt
NOTARY PUBLIC



POWER OF ATTORNEY

PRINCIPAL M.A. Gaines Construction Co. Inc. EFFECTIVE DATE October 15, 1986
1014 Webster Fort Wayne, Indiana 46802
 (STREET ADDRESS) (CITY) (STATE) (ZIP CODE)
 CONTRACT AMOUNT \$61,682.50 AMOUNT OF BOND \$ 61,682.50
 POWER NO. IC 12218482

KNOW ALL MEN BY THESE PRESENTS, that the Indiana Lumbermens Mutual Insurance Company, a Corporation duly organized and existing under the laws of the State of Indiana, with its principal office in the City of Indianapolis, Indiana, does hereby make, constitute and appoint Ila Delman

State of Illinois

as its true and lawful Attorney(s)-in-Fact, with full power and authority hereby conferred to sign, execute, acknowledge and deliver any and all Bonds and undertakings, recognizances, contracts of indemnity, and other writings obligatory in the nature thereof for and on its behalf as follows:

The obligation of the Company shall not exceed one million (\$1,000,000.00) dollars.

And to bind the Corporation thereby as fully and to the same extent as if such Bonds and undertakings, recognizances, contract of indemnity, and other writings obligatory in the nature thereof were signed by the President, sealed and duly attested by the Secretary of the Corporation, hereby ratifying and confirming all that the said Attorney(s)-in-Fact may do in the premises. This Power of Attorney is executed and may be revoked pursuant to and by authority granted by Article IV, Section 2-A (1) and (2) of the By-Laws of the Indiana Lumbermens Mutual Insurance Company, which reads as follows:

- (1) The President or any Vice President shall have the power and authority, by and with the concurrence with the Secretary of the Corporation, to appoint Attorneys-in-Fact for purposes only of executing and attesting to Bonds and undertakings, recognizances, contracts of indemnity, and other writings obligatory in the nature thereof, and at any time to remove any such Attorney-in-Fact and to revoke the power and authority given to him.
- (2) Attorneys-in-Fact when so appointed shall have power and authority, subject to the terms and limitations of the Powers of Attorney issued to them, to execute and deliver on behalf of the Corporation any and all Bonds and undertakings, recognizances, contracts of indemnity, and other writings obligatory in the nature thereof, and such instrument executed by any such Attorney-in-Fact shall be as binding upon the Corporation as if signed by an Executive Officer and sealed and attested by the Secretary.

IN WITNESS WHEREOF, the Indiana Lumbermens Mutual Insurance Company has caused these presents to be signed by its Vice President, attested by its Secretary and its Corporate Seal to be hereto affixed this FIRST day of JANUARY 19 85.

ATTEST:

By L. W. Rodney
Secretary



Indiana Lumbermens Mutual Insurance Company

By [Signature]
Vice President

STATE OF INDIANA }
COUNTY OF MARION } SS:

On this FIRST day of JANUARY 19 85, before me personally came the individual who executed the preceding instrument, to me known, who being by me duly sworn, acknowledged the execution of the above instrument and did depose and say; that he is the therein described and authorized officer of the Indiana Lumbermens Mutual Insurance Company; that he knows the seal of said Corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said Corporation; and that he signed his name thereto by like order.

January 7, 1987
My Commission Expires



Letty M. Nieton
Notary Public

STATE OF INDIANA }
COUNTY OF MARION } SS:

I, the undersigned, Secretary of the Indiana Lumbermens Mutual Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Indiana Lumbermens Mutual Insurance Company, which is still in force and effect.

This Certificate may be signed and sealed by facsimile under and by the authority of the following resolution of the Board of Directors of Indiana Lumbermens Mutual Insurance Company at a meeting duly called and held on the 12th day of June 1973.

"RESOLVED: That the use of printed facsimile of the Corporate Seal of the Company and of the signature of the Secretary on any certification of the correctness of a copy of an instrument executed by the President or a Vice President pursuant to Article IV, Section 2-A (1) and (2) of the By-Laws appointing and authorizing Attorney-in-Fact to sign in the name and on behalf of the Company Bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof, with like effect as if such seal and such signature had been manually affixed and made, hereby is authorized and approved."

In witness whereof, I have hereunto set my hand and affixed the seal of said Corporation, this 15th day of October 19 86

(SEAL)



L. W. Rodney
Secretary

TITLE OF ORDINANCE Contract for Improvement Res. #6056-86, Delaware & Tecumseh SidewalksDEPARTMENT REQUESTING ORDINANCE Board of Public Works & Safety D-86-10-51SYNOPSIS OF ORDINANCE The Contract for Improvement Res. #6056-86, Delaware & Tecumseh Sidewalks, 1986 Bond Issue is for the improvement of the following:DELAWARE AVENUE (Both Sides) from St. Joseph Blvd. east to Kentucky Avenue& TECUMSEH AVENUE from Tennessee Avenue north to Delaware Avenue by replacing sidewalks and addition of yard walks and Paraplegic ramps. M. A. GainesConstruction Company, Inc. is the contractor. Prior Approval was received onOctober 7, 1986.EFFECT OF PASSAGE Improvement of the above locations.

EFFECT OF NON-PASSAGE

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) \$61,682.50

ASSIGNED TO COMMITTEE

BILL NO. S-86-10-51

REPORT OF THE COMMITTEE ON PUBLIC WORKS

WE, YOUR COMMITTEE ON PUBLIC WORKS TO WHOM WAS

REFERRED AN (ORDINANCE) ~~XXXXXXXXXX~~ (RESOLUTION) approving Contract for

Improvement Res. #6056-86, Delaware and Tecumseh Sidewalks -

1986 Bond Issue, between the City of Fort Wayne, Indiana and M.A.

Gaines Construction Co., Inc., in connection with the Board of

Public Works and Safety

HAVE HAD SAID (ORDINANCE) ~~XXXXXXXXXX~~ (RESOLUTION) UNDER CONSIDERATION AND BEG
LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE)
(RESOLUTION) ~~XXXXXXXXXX~~

YES

NO

Thomas C. Henry
THOMAS C. HENRY
CHAIRMAN

Donald J. Schmidt
DONALD J. SCHMIDT
VICE CHAIRMAN

Mark E. GiaQuinta
MARK E. GiaQUINTA

Paul M. Burns
PAUL M. BURNS

Charles B. Redd
CHARLES B. REDD

CONCURRED IN 11-10-86

SANDRA E. KENNEDY
CITY CLERK